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Douglas A. Ducey, Governor
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REGULATORY BULLETIN 2015-05[1]

To: Insurance Producers, Surplus Lines Brokers, Insurance Industry Representatives, Insurance Trade Associations, Life & Disability Insurers, Property & Casualty Insurers, and Other Interested Parties.

From: Germaine L. Marks
Director

Date: June 19, 2015

Re: **2015 Arizona Insurance Laws**

This Regulatory Bulletin summarizes the major, newly enacted legislation affecting the Department, its licensees, and insurance consumers. This summary is not meant as an exhaustive list or a detailed analysis of all insurance-related bills. It generally describes the substantive content, but does not capture all details or necessarily cover all bills that may be of interest to a particular reader. The Department may follow this bulletin with other, more detailed bulletins related to implementation of the legislation. All interested persons are encouraged to obtain copies of the enacted bills by contacting the Arizona Secretary of State's Office at (602)-542-4086, or from the Arizona Legislature's website at http://www.azleg.gov . Please direct any questions regarding this bulletin to Andrew Carlson, Legislative Liaison, (602)-364-3761.

Arizona's 52nd Legislature, First Regular Session, adjourned *sine die* on April 3, 2015, at 3:37 A.M. **Except as otherwise noted, all legislation has a general effective date of July 3, 2015.** Most legislative enactments become effective 90 days after the close of the legislative session. The purpose of the 90-day interim period is to allow opponents of enacted legislation time to circulate referendum petitions to prevent the legislation from taking effect until the voters have the opportunity to approve or reject it at the next election. If no valid petition is filed with the Secretary of State with 90 days, the measure takes effect on the 91st day (known as the general effective date) or on some later date specified in the bill. Also, legislation summarized herein may be subject to legal challenges that could impact all or part of a law's effective date.

[1] This Substantive Policy Statement is advisory only. A Substantive Policy Statement does not include internal procedural documents that only affect the internal procedures of the Agency, and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this Substantive Policy Statement does impose additional requirements or penalties on regulated parties you may petition the agency under Arizona Revised Statutes Section 41-1033 for a review of the Statement.

INSURANCE-RELATED BILLS ENACTED IN 2015:

SB 1471: revenue; budget reconciliation; 2015-2016. (Ch. 10)

Amends ARS § 20-224:

- Requires the Director of Insurance to report on the amount of insurance premium tax credits (as specified in law) that were used during the previous fiscal year to The Joint Legislative Budget Committee and The Governor's Office of Strategic Planning and Budgeting. This report is due on or before September 30th of each year.
- Makes technical changes.

Includes session law that prohibits the Director of Insurance from revising fees or assessments in FY 2015-16 in order to meet the requirements of ARS § 20-167(F) and ARS § 20-466(J).

Includes several pieces of session law related to the Arizona Department of Agriculture, the Arizona Radiation Regulatory Agency, the Arizona Department of Liquor Licenses and Control, the Arizona Department of Financial Institutions, the Arizona Department of Revenue and certain counties.

Includes an intent clause related to the changes to ARS § 42-5041.

HB 2335: insurance compliance audit privilege (Ch. 55)

Amends ARS § 20-3301 by making conforming changes.

Amends ARS § 20-3302:

- Regarding the privilege of an insurer's insurance compliance audit:
  - Removes the requirement for an insurer to give the Director of Insurance prior and concluding notice of an insurance compliance audit document.
- Increases the time frame (from 30 days to 60 days) an insurer may file a petition for a court hearing to determine whether an insurance compliance audit document (or portions of the document) is privileged or subject to disclosure.
- Clarifies that a court must conduct an in camera review of the insurance compliance audit document and must determine whether all or a portion of the document is privileged or subject to disclosure.
- Clarifies that an insurer's failure to file a petition for hearing does not waive the privilege in connection with any other request for disclosure of the insurance compliance audit document.
- Affirms that Title 20, Chapter 24, Article 1, does not limit the Director of Insurance's authority under ARS §§ 20-156, 20-157, 20-157.01, 20-160 and 20-466.
- Makes other technical, clarifying and conforming changes.

HB 2350: limited line insurance; examination exemption (Ch. 56)

Amends ARS § 20-288 by exempting an applicant for an insurance producer license with authority for limited line insurance from taking a pre-licensing examination

SB 1318: abortion; health care exchange; licensure (Ch. 87)

Amends ARS § 20-121:

- Clarifies that any qualified health plan offered through any health care exchange operating in Arizona may not offer coverage for abortions.
    - Specifies that the abortion coverage prohibition does not apply to a pregnancy that is a result of rape or incest.
- Removes the stipulation that abortion coverage may be offered as a separate optional rider if an additional insurance premium is charged.

Amends ARS § 36-404 by exempting a physician's personally identifiable information and any records kept regarding the physician's admitting privileges by the Arizona Department of Health Services from being made available to the public.

Amends ARS § 36-449.02 by requiring an abortion clinic, on initial licensure and any subsequent renewal, to submit to the Arizona Director of Health Services all documentation required by Title 36, Chapter 4, Article 10, including verification that certain physicians of the clinic have admitting privileges at a health care institution.

Amends ARS § 36-2153:

- Requires certain health professionals to inform a woman, who is seeking an abortion, that:
    - It may be possible to reverse the effects of a medication abortion if the woman changes her mind but that time is of the essence.
    - Information on and assistance with reversing the effects of a medication abortion is available on the Arizona Department of Health Services' website.
- Requires the Arizona Department of Health Services' website include informative materials on the potential ability of qualified medical professionals to reverse a medication abortion and direct women where to obtain further information and assistance in locating a medical professional who can aid in the reversal of a medication abortion.

HB 2332: accountable health plans; disclosure; repeal (Ch. 116)

Amends ARS § 20-1057.02 by deleting the requirement that a Health Care Services Organization ("HCSO") provide an enrollee a disclosure form outlining the prescription drug formulary of the HCSO plan.

Repeals ARS § 20-1076, which requires an HCSO to provide certain disclosures when offering a health plan and outlines the rights of an enrollee to receive the disclosures.

Amends ARS § 20-2304 by making conforming changes.

Repeals § 20-2323, which requires an Accountable Health Plan to provide certain disclosures when offering a health plan and outlines the rights of an enrollee to receive the disclosures.

HB 2342: insurance; surplus lines; home state fund (Ch. 117)

Enacts ARS § 20-423:

- Requires a voluntary domestic organization of Surplus Lines brokers that contracts with the Director of Insurance (under ARS § 20-167) to be incorporated as an Arizona nonprofit corporation.
- Permits a Surplus Lines broker, who is licensed and in good standing in Arizona, to be an organization member if the broker pays any required membership fee and dues.
- Outlines which individuals and entities from which the organization may collect stamping fees.
- Requires the organization to hold an annual meeting of its members.
- Permits the organization to hold special meetings of its members.
- Provides guidelines on how an organization member may participate in meetings without being present in person and counted for a quorum determination.
- Requires an organization to meet specified conditions in order for members to participate in meetings without being present in person and counted for a quorum determination.
- States that "2% of the total membership of the organization present in-person or by proxy and entitled to vote at a meeting constitutes a quorum for the transaction of business at the meeting."
- States that the term "stamping fee", for purposes of ARS § 20-423, has the same meaning as ARS § 20-167.

HB 2352: credit for reinsurance; reduction; liability (Ch. 119)

This legislation makes several changes and additions to ARS Title 20 that align certain provisions of Arizona law with the National Association of Insurance Commissioners' ("NAIC") "Credit for Reinsurance" model act and regulation. Unless otherwise noted, pursuant to ARS § 20-261.07, ARS §§ 20-261.03, 20-261.05 and 20-261.06, as added or amended by this legislation, apply to all cessions after the effective date of this section under reinsurance agreements that have an inception, anniversary or renewal date that is not less than 6 months after July 3, 2015. ARS §§ 20-261.03, 20-261.05 and 20-261.06 mirror many parts of existing law but are provided here in their entirety to provide clarity.

Amends ARS § 20-261.03 by making technical changes.

Enacts ARS § 20-261.05:

- Permits a domestic ceding insurer a credit for reinsurance as either an asset or a reduction from liability on account of reinsurance ceded only when the reinsurer meets one or more of the following requirements:
    - The reinsurance is ceded to an assuming insurer that is licensed to transact insurance or reinsurance in Arizona.
    - The reinsurance is ceded to an assuming insurer that is accredited by the Director of Insurance as a reinsurer.

- The reinsurance is ceded to an assuming insurer that is domiciled in, or in the case of a U.S. branch of an alien assuming insurer is entered through, a state that employs credit for reinsurance standards that are substantially similar to those applicable under ARS § 20-261.05 and the assuming insurer does both of the following:
  - Maintains a surplus as regards policyholders in an amount not less than $20,000,000.00 independent of any reinsurance ceded and assumed under a pooling agreement among insurers in the same holding company system.
  - Submits to the authority of Arizona to examine its books and records.
- The reinsurance is ceded to an assuming insurer that maintains a trust fund in a qualified U.S. financial institution for the payment of valid claims of its U.S. ceding insurers, their assigns and successors in interest.
  - The assuming insurer is required to annually report to the Director of Insurance information substantially that same as that required to be reported in the NAIC annual statement form by licensed insurers.

- Requires an assuming insurer that maintains a trust fund to submit to examination of its books and records by the Director of Insurance and assume the expense of the examination.
- Stipulates the following provisions for a trust fund maintained by an assuming insurer to qualify for a credit for reinsurance:
  - Prohibits a credit unless the form of the trust and any amendment to the trust have been approved either by:
    - The Director/Commissioner of Insurance of the state where the trust is domiciled; or
    - The Director/Commissioner of Insurance of another state has accepted principal regulatory oversight of the trust.
  - Requires the form of the trust and any amendments to be filed with the Director/Commissioner of Insurance in every state in which the ceding insurer trust beneficiaries are domiciled.
  - Requires the trust instrument provide that contested claims be valid and enforceable on the final order of any court of competent jurisdiction in the United States.
  - Directs the trust to vest legal title to its assets in its trustees for the benefit of the assuming insurer's U.S. ceding insurers, their assigns and successors in interest.
  - Requires the trust and the assuming insurer to be subject to examination as determined by the Director of Insurance.
  - Requires the trust to remain in effect for as long as the assuming insurer has outstanding obligations due under the reinsurance agreements subject to the trust.
  - Mandates that on or before February 28th of each year, the trustee of the trust shall:
    - Report to the Director of Insurance the balance of the trust and a list of the trust's investments at the preceding year end; and
    - Certify the termination date of the trust (if so planned) or that the trust will not expire before the following December 31st.

- Requires a trust fund for a single assuming insurer to consist of funds in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by the U.S. ceding insurers and requires a single assuming insurer to maintain a trusteed surplus of not less than $20,000,000.00, except under specified circumstances.
- Outlines the requirements by which an assuming insurer may reduce the required trusteed surplus after the insurer has permanently discontinued underwriting new business secured by the trust for at least three full years.
- Establishes specific trust requirements for a group, including incorporated and individual unincorporated underwriters and , that has ceded reinsurance under agreements with an inception amendment or renewal both before and after January 1, 1993.
- Requires a group of incorporated underwriters under a common administration to meet the following:
  - Have continuously transacted an insurance business outside of the U.S. for at least 3 years immediately before making application for accreditation.
  - Maintain aggregate policyholders' surplus of at least $10,000,000,000.00.
  - Maintain a trust fund in an amount not less than the group's several specified liabilities.
  - Maintain a joint trusteed surplus of which $100,000,000.00 must be held jointly for the benefit of U.S. domiciled ceding insurers of any group member as additional security for these liabilities.
  - Make available to the Director of Insurance an annual certification of each group member's solvency and financial statements within 90 days after the group's financial statements are due with the domiciliary regulator.

- Permits a credit for reinsurance if the reinsurance is ceded to an assuming insurer that has been certified by the Director of Insurance as an Arizona reinsurer and that secures its obligations as specified by law.
- Requires an assuming insurer, in order to be a certified reinsurer by the Director of Insurance, to meet specified requirements.
  - Includes additional requirements for an association, including incorporated and individual unincorporated underwriters, to be eligible for certification.
- Requires a reinsurer, in order to be eligible for accreditation with the Director of Insurance, to complete all of the following:
  - File with the Director of Insurance evidence of its submission to Arizona's jurisdiction.
  - Submit to Arizona's authority to examine its books and records.
  - Be licensed to transact insurance or reinsurance in at least one state, or in the case of a U.S. branch of an alien assuming insurer, be entered through and licensed to transact insurance or reinsurance in at least one state.
  - Annually file with the Arizona Director of Insurance a copy of its annual statement filed with the insurance department of its state of domicile and a copy of its most recent audited financial statement.
  - Demonstrate to the satisfaction of the Director of Insurance that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from a domestic insurer.

        - An insurer is deemed to meet this requirement – at the time of its application – if it maintains a surplus as regards policyholders in an amount not less than $20,000,000.00 and the Director of Insurance has not denied its accreditation within 90 days after submission of its application.
- Requires the Director of Insurance to create and publish a list of qualified jurisdictions, under which an assuming insurer licensed and domiciled in such jurisdiction is eligible to be considered for certification by the Director as a certified reinsurer.
    - Outlines the requirements the Director of Insurance must follow when determining qualified jurisdictions.
- Requires certified reinsurers to secure obligations assumed from U.S. ceding insurers at level consistent with its rating (as specified by rule).
    - Enumerates specified financial and regulatory provisions that apply to certified reinsurers and domestic ceding insurers doing business with certified reinsurers.
- Permits a credit when the reinsurance is ceded to an assuming insurer that does not meet specified requirements under ARS § 20-261.05, but only as to the insurance of risks located in jurisdictions where reinsurance is required by applicable law or regulation of that jurisdiction.
- Stipulates a credit otherwise permitted by ARS § 20-261.05 (D) or (E) may not be allowed if an assuming insurer is not licensed, accredited or certified to transact insurance or reinsurance in Arizona, unless the assuming insurer agrees to all of the following:
    - To submit, at the request of the ceding insurer, to the jurisdiction of any court of competent jurisdiction in any state with the following stipulations:
        - To comply with all requirements necessary to give the court jurisdiction;
        - To abide by the final decision of the court (or appellate court, if applicable).
    - To designate the Director of Insurance (or a designated attorney) as its true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the ceding insurer.
- States that if an assuming insurer is not 1) licensed to transact insurance or reinsurance in Arizona; or 2) accredited by the Director of Insurance; or 3) domiciled in a state that employs credit for reinsurance standards substantially similar to Arizona standards, a credit otherwise permitted under ARS § 20-261.05 (E),(F),(G) or (H) will not be permitted unless the assuming insurer agrees to specified conditions.
- Allows the Director of Insurance to suspend or revoke a reinsurer's accreditation or certification, if the reinsurer ceases to meet the requirements for accreditation or certification, subject to specified conditions.
- Stipulates, regarding a ceding insurer's concentration risk, a ceding insurer must:
    - Take certain steps to both manage its reinsurance recoverables proportionate to its own book of business and to diversify its reinsurance program.
    - Meet certain notification requirements related to a domestic ceding insurer's reinsurance recoverables and gross written premium levels.

Enacts ARS § 20-261.06:

- Permits an asset or a reduction from liability from the reinsurance ceded by a domestic insurer to an assuming insurer that is not meeting the requirements of ARS § 20-261.05.
    - Caps the asset or a reduction from liability in amount not to exceed the liabilities carried by the ceding insurer.
    - Specifies the requirements for the reduction.
    - Details the permissible security forms.

Enacts ARS § 20-261.07, which is notwithstanding ARS § 20-261.04, by applying ARS §§ 20-261.03, 20-261.05 and 20-261.06 to all cessions after July 3, 2015, under reinsurance agreements that have an inception, anniversary or renewal date that is not less than 6 months after July 3, 2015.

Enacts ARS § 20-261.08, permitting the Director of Insurance to adopt rules to implement ARS §§ 20-261.03, 20-261.05, 20-261.06 and 20-261.07 relating to credit for reinsurance.

Contains session law (Laws 2015, Chapter 119, Section 3) that exempts ADOI from the rule-making requirements of Title 41, Chapter 6, for two years from the effective date, in order to implement the provisions of this legislation.

SB 1039: health care sharing ministries; exemption (Ch. 136)

Amends ARS § 20-122 by conforming the definition of "health care sharing ministry" with federal law [26 U.S.C. 5000A(d)(2)(B)] as follows:

- Limits participants to those who share a common set of ethical or religious beliefs, instead of those who share a similar faith.
- Requires the health care sharing ministry to retain membership even after a member develops a medical condition.
- Requires the health care sharing ministry or its predecessor to have been in existence at all times since December 31, 1999.
- Requires medical expenses of a health care sharing ministry's members to have been shared continuously and without interruption since at least December 31, 1999.
- Requires the health care sharing ministry to conduct an annual audit, which is performed by an independent certified public accounting firm in accordance with generally accepted accounting principles and which is made available to the public upon request.

SB 1166: health care insurance; utilization review (Ch. 151)

Amends ARS § 20-2532:

- Clarifies that a health care insurer[2] that utilizes the services of an outside utilization review agent (URA) is responsible for the URA's acts under a written and filed plan, including the administration of all patient claims processed by the URA on behalf of the insurer.

[2] For the purposes of SB 1166, "Health Care Insurer" means a disability insurer, group disability insurer, blanket disability insurer, health care services organization, hospital service corporation, prepaid dental plan organization, medical service corporation, dental service corporation or optometric service corporation or a hospital, medical, dental and optometric service corporation, pursuant to ARS § 20-2501(A)(8).

- Makes other technical changes.

SB 1288: prescription drug coverage; medication synchronization (Ch. 159)

This legislation applies to contracts, evidences of coverage, and policies that are issued or renewed on or after January 1, 2017, by the following types of entities regulated by ADOI:

- Hospital, Medical, Dental and Optometric Service Corporations (ARS § 20-821, et seq.)
- Health Care Services Organizations (ARS § 20-1051, et seq.)
- Disability Insurers (ARS § 20-1341, et seq.)
- Group and Blanket Disability Insurance (ARS § 20-1401, et seq.)

In this summary, these entities will be referred to collectively as "health care insurer" and a contract, evidence of coverage and policy will be referred to collectively as "policy".

Enacts ARS §§ 20-848, 20-1057.15, 20-1376.07 and 20-1406.07:

- Stipulates that a policy that is issued or renewed on or after January 1, 2017 and that provides coverage for prescription drugs:
    - May not deny coverage and shall prorate the cost sharing rate for a prescription drug covered by the policy that is dispensed by a network pharmacy for less than the standard refill amount, if the insured requests enrollment into a medication synchronization program and requests less than the standard refill amount for the purpose of synchronizing the insured's medications.
    - Must accept early refill and short fill requests for prescription drugs using the submission clarification and message codes as adopted by the "National Council for Prescription Drug Programs" or alternative codes provided by the insurer upon the effective date of this legislation.
- Defines "medication synchronization" as *the coordination of medication refills for a patient taking two or more medications for a chronic condition that are being dispensed by a single contracted pharmacy to facilitate the synchronization of the patient's medication for the purpose of improving medication adherence.*

HB 2440: tax; insurance; retaliation (Ch. 184)

This legislation is effective from and after December 31, 2015.

Amends ARS § 20-230:

- Exempts an insurer domiciled in another state from Arizona's retaliation requirements [ARS § 20-230(A)] if, in accordance with its laws, the other state does not impose retaliation against similar Arizona-domiciled insurers.
- Makes other technical and conforming changes.

HB 2568: insurance premium tax reduction (Ch. 220)

Amends ARS § 20-224:

- Changes the premium tax rates insurers must follow to pay premium taxes to the Arizona Director of Insurance as follows:
    - For fire insurance:
        - 0.66% on property located in a city of town certified by the state Fire Marshal as procuring the services of a private fire company
        - 2.20% on all other property.
    - For all other insurance except disability and health care service plans:
        - 1.99% for premiums received in calendar year (CY) 2016;
        - 1.98% for premiums received in CY 2017;
        - 1.95% for premiums received in CY 2018;
        - 1.92% for premiums received in CY 2019;
        - 1.89% for premiums received in CY 2020;
        - 1.86% for premiums received in CY 2021;
        - 1.83% for premiums received in CY 2022;
        - 1.80% for premiums received in CY 2023;
        - 1.77% for premiums received in CY 2024;
        - 1.74% for premiums received in CY 2025;
        - 1.70% for premiums received in CY 2026 and each subsequent CY.
- Stipulates that for the purposes of net premium tax rates, fire insurance is:
    - 100% of the fire lines;
    - 40% of commercial multiple peril lines;
    - 35% of homeowners' multiple peril lines;
    - 25% of multiple peril lines;
    - 20% of allied lines.
- Stipulates, for the purpose of surplus lines premium tax, fire insurance is 85% of fire and allied lines.
- Makes other technical and conforming changes.

Amends ARS §§ 20-224.02 and 20-416 by making technical and conforming changes.

HB 2135: transportation network companies (Ch. 235)

This legislation establishes insurance and regulatory requirements for "Transportation Network Companies" ("TNC") and TNC drivers. Further, the legislation establishes provisions in statute to permit an insurance company to write this type of coverage on a personal lines automobile policy by amending the Arizona personal automobile nonrenewal/cancellation requirements (ARS § 20-1631).

A TNC is a technology-based business that utilizes a digital platform to match company drivers to potential passengers.

Amends ARS § 20-1631:

- From and after February 29, 2016:
    - For the purposes ARS Title 20, Chapter 6, Article 11, redefines the term "motor vehicle" to exclude a vehicle that otherwise qualifies as a motor vehicle but only while the vehicle's driver is logged in to a TNC network or application to be a driver or is providing transportation network services, unless expressly covered by the private passenger policy.

    - Adds the following provision to the list of reasons an insurer may exercise its right to cancel or nonrenew an Arizona personal automobile insurance that has been in effect for 60 days or more:
        - The named insured (and other specified persons) uses a motor vehicle rated and insured under the policy to provide transportation network services unless, while the driver is logged in to the transportation TNC's network or application to be a driver or is providing transportation network services, the named insured either:
            - Has procured an endorsement to the private passenger policy that expressly provides coverage; or
            - Is covered by a motor vehicle liability insurance policy issued by another insurer expressly providing such coverage.
- Permits an insurer to issue an endorsement to a private passenger policy that expressly provides coverage for the provision of transportation network services.
    - Stipulates the endorsement may not be treated as "basic coverage" (defined in statute) and any termination of the endorsement may not be treated as a modification of basic coverage.
- Allows an insurer to terminate the transportation network services endorsement by giving advance notice of the termination as follows:
    - Requires the termination notice to be mailed to the named insured by United States mail at least 45 days prior to the effective date of the termination.
    - Requires the termination notice to include an explanation to the named insured that the further provision of the transportation network services following the effective date of the termination may be subject the insured to cancellation or nonrenewal of the insured's policy.
- States an insurer is not obligated to offer, provide or issue a policy or an endorsement that includes coverage for any liability incurred while a TNC driver is logged in to the TNC's network or application to be a driver or is providing transportation network services.
- Applies the definitions of "Transportation Network Company", "Transportation Network Company Driver" and "Transportation Network Services" found in ARS § 41-2138 to this statute.
- Makes other technical changes.

Amends ARS § 28-101 by making technical and conforming changes.

Amends ARS § 28-142 to include transportation network companies and vehicles as an issue of statewide concern and to prohibit further regulation by a county, city, town or political subdivision, except for public airport operators.

Amends ARS § 28-2164 by excluding transportation network companies, drivers and vehicles from the statutory requirement to re-title a vehicle on using or offering to use the vehicle for transportation of passengers for compensation.

Amends ARS § 28-4009 by stating that unless expressly authorized by the terms of the policy or an amendment or endorsement to the policy, a motor vehicle liability policy is not required to insure liability from and after February 29, 2016, for a private passenger motor vehicle used for specified transportation network services.

Amends ARS § 28-4033 by changing the minimum coverage limits and options for the commercial transportation of passengers in a vehicle with a seating capacity of not more than 8 passengers.

Enacts ARS § 28-4038:

- Outlines the required insurance coverages for a TNC arrangement with a driver that requires the driver to accept rides that are booked and paid for exclusively through the TNC's network or software application and during the time in which the TNC driver is logged in to the TNC's network or application to be a driver, but is not in the act of providing TNC services, as follows:
    - Before March 1, 2016:
        - Requires a TNC driver to maintain a motor vehicle liability insurance policy that meets at least the state's minimum coverage limits ($15k/$30k/$10k):
            - $15,000 because of bodily injury to or death of one person in any one accident.
            - $30,000 because of bodily injury to or death of two or more persons in any one accident, subject to the limit for one person.
            - $10,000 because of injury to or destruction of property of others in any one accident.
        - Requires a TNC to provide motor vehicle liability insurance coverage ($25k/$50k/$20k), if the TNC driver's policy excludes coverage according to the policy's terms.
    - From and after February 29, 2016:
        - Requires a TNC, a TNC driver, or both, to provide primary motor vehicle liability insurance coverage in the amount of $25k/$50k/$20k.
        - Permits the required coverage to be maintained through any of the following:
            - A private passenger motor vehicle insurance policy maintained by the TNC driver that expressly provides liability coverage while the driver is logged in to the TNC's network or application to be a driver.
            - A motor vehicle liability insurance policy maintained by the TNC.
            - A commercial motor vehicle liability insurance policy.
- Outlines the required insurance coverages for a TNC arrangement with a driver that requires the driver to accept rides that are booked and paid for exclusively through the TNC's network or software application and during the time in which the TNC driver is providing TNC services, the TNC driver or the TNC, or both, as follows:
    - Primary commercial motor vehicle liability insurance that covers the TNC driver's provision of TNC services in a minimum amount of $250,000 per incident.
    - Commercial uninsured motorist coverage in a minimum amount of $250,000 per incident.
- Outlines the required insurance coverages maintained either by a TNC driver or the TNC for a TNC arrangement with a driver that does not require the driver to accept rides booked and paid for exclusively through the TNC's network or software application and

during the time in which the TNC driver is logged in to the TNC's network or application to be a driver, as follows:

- Primary commercial motor vehicle liability insurance ($25k/$50k/$20k) during the time in which the driver is available to provide passenger transportation but has not accepted a ride request and is not in the act of providing passenger transportation.
- After the driver has accepted a ride request through any communication (including a street hail) and during the time in which the driver is providing passenger transportation:
  - Primary commercial motor vehicle liability insurance in a minimum amount of $250,000 per incident.
  - Commercial uninsured motorist coverage in a minimum amount of $250,000 per incident.

- States that, from and after February 29, 2016, a TNC driver's insurance policy and the motor vehicle owner's personal motor coverage are not required to provide coverage for the TNC vehicle, the TNC driver, the motor vehicle owner or any third party while a TNC driver is logged in to a TNC's network or application to be a driver or is providing TNC services, unless an insurance policy expressly provides coverage or contains an amendment or endorsement that expressly provides coverage.
- Permits an insurer to offer a motor vehicle policy or an amendment or endorsement to the policy that expressly covers the period during which a TNC driver is logged in to the TNC network or application to be a TNC driver or is providing TNC services.
- Deems an insurance policy required by ARS § 28-4038 to satisfy the financial responsibility requirements for a motor vehicle insurance policy under ARS Title 28.
- Outlines the proof of insurance requirements a TNC driver must perform when operating a TNC vehicle.
- Outlines the requirements a TNC and an insurer must perform in a claims investigation.
- States that, from and after February 29, 2016, an insurer is not obligated to provide, issue or offer coverage for a motor vehicle used for specified transportation network services.
- Permits a required insurance policy for TNC services to be placed with an authorized insurer or a surplus lines insurer pursuant to ARS Title 20.
- Allows ADOI to request specified information from any property and casualty insurer authorized to write private passenger motor vehicle coverage in Arizona related to TNC coverages.

Enacts ARS § 28-4039, which outlines the insurance requirements for taxis, livery vehicles and limousines, including minimum coverage, claims handling and carrying proof of coverage.

Amends ARS § 41-2052 to include TNCs and TNC vehicles as an issue of statewide concern and to prohibit further regulation by a county, city, town or political subdivision, except for public airport operators.

Amends ARS § 41-2097 by rewriting and implementing new requirements on owners and drivers of taxis, livery vehicles and limousines.

Enacts ARS Title 41, Chapter 15, Article 8, titled "Transportation Network Companies", which provides TNC statutory definitions, regulations, and requirements, including disclosure of the insurance coverage and limits of liability the TNC provides the driver performing TNC services.

Amends ARS § 42-5062 by exempting certain TNCs from transaction privilege classifications.

Includes session law that states: *It is the intent of the legislature that the Department of Insurance immediately expedite review of any application for approval of a motor vehicle insurance product providing coverage for a transportation network company as defined in ARS § 41-2138, or a transportation network company driver as defined in ARS § 41-2138, who is engaged in providing transportation network services as defined in ARS § 41-2138, and that at least two of these products be available for purchase on or before March 1, 2016.*

Includes session law related to the Arizona Department of Weights and Measures, the Arizona Department of Transportation and Arizona Legislative Council.

The following bills neither enact new, nor amend existing, provisions of Title 20; however, these bills may also impact the Department, its licensees, and insurance consumers:

HB 2212: licensing; accountability; enforcement; exceeding regulation (Ch. 104)

Amends ARS § 41-1030:

- Permits a private civil action as a method of enforcement against a state agency if the state agency bases a licensing decision in whole or in part on a requirement or condition that is not specifically authorized by statute, rule or state tribal gaming compact.
    - Permits a court to award reasonable attorney fees, damages and all fees associated with the license application to a party that prevails in an action against the state for a violation of ARS § 41-1030.
- Prohibits a state employee from intentionally or knowingly violating ARS § 41-1030.
    - States a violation is cause for disciplinary action or dismissal pursuant to the agency's adopted personnel policy.
- States that ARS § 41-1030 does not abrogate the immunity provided by ARS §§ 12-820.01 and 12-820.02.
- Requires a state agency to prominently print the provisions of ARS § 41-1030 (B)(D)(E) and (F) on all license applications, except applications processed by the Arizona Corporation Commission.
- Permits the licensing application to be in either print or electronic format.
- Makes other technical and conforming changes.

Amends ARS §§ 9-834, 11-1604 and 48-3644 by making similar changes to the provisions listed above; these statutes are applicable to municipalities, counties and flood control districts, respectively.

HB 2213: inspections; audits; notice; rights (Ch. 192)

Amends ARS § 41-1001.01:

- Specifies under the "Regulatory Bill of Rights" that a person may correct deficiencies identified during an inspection unless otherwise provided by law.
- Requires a state agency to provide a written document of the small business bill of rights to the authorized on-site representative of the regulated small business.

Amends ARS § 41-1009:

- Requires an agency inspector, auditor or regulator, who enters any premises of a regulated person for the purpose of conducting an inspection or audit, to inform each person who is interviewed that:
    - Participation in an interview is voluntary, unless the person is legally compelled to participate;

    - The person is allowed at least 24 hours to review and revise any written witness statement that is drafted by the agency inspector, auditor or regulator and on which the agency inspector, auditor or regulator requests the person's signature.
    - The inspector, auditor or regulator may not prohibit the regulated person from having an attorney or any other experts in their field present during the interview to represent or advise the regulated person.
- Includes the following that must be provided in writing on the initiation of an audit or an inspection of regulated person's premises:
    - A statement that the agency inspector, auditor or regulator may not take an adverse action, treat the regulated person less favorably or draw any inference as a result of the regulated person's decision to be represented by an attorney or advised by any other experts in their field.
    - A notice that if information and documents provided to the agency inspector, auditor or regulator become a public record, the regulated person may redact trade secrets and proprietary and confidential information unless the information and documents are confidential pursuant to statute.
    - The time limit or statute of limitations applicable to the right of the agency inspector, auditor or regulator to file a compliance action against the regulated person arising from the inspection or audit, which applies to both new and amended compliance actions.
- Requires an agency inspector, auditor or regulator to obtain the signature of the regulated person or on-site representative of the regulated person under specified circumstances.
- Permits an agency inspector, auditor or regulator to provide an electronic version of the small business bill of rights and, at the request of the regulated person or on-site representative, obtain a receipt in the form of an electronic signature.
- Requires an agency to provide a regulated person an opportunity to correct any reported deficiencies, except under specified circumstances.
- Exempts "certificates or convenience and necessity" that are issued by the Arizona Corporation Commission from the requirements of ARS § 41-1009.
- Exempts certain regulatory authorities of the Arizona Department of Health Services and the Arizona Corporation Commission from specified requirements under ARS § 41-1009.

HB 2417: health care providers; direct payments (Ch. 266)

As stated in the bill (Laws 2015, Chapter 266, Section 4), ARS §§ 32-3216 and 36-437 as amended by this legislation, are effective from and after December 31, 2016, and apply to policies, contracts and plans that are issued or renewed from and after December 31, 2016. "Direct Pay Price" is defined under ARS §32-3216(P)(1).

Amends ARS §§ 32-3216 and 36-437:

- Requires a health care provider, who receives direct payment for certain health care services rendered, to provide the person making the direct payment a receipt with specified information.

- Requires any direct pay price paid by an enrollee to an out-of-network health care provider for a lawful health care service that is covered by under the enrollee's health care plan, to be treated as follows:
    - The amount paid by the enrollee must be applied first to the enrollee's in-network deductible with any remaining monies being applied to the enrollee's out-of-network deductible (if applicable).
        - The amount paid applied to the in-network deductible must be the amount paid directly or the insurer's "prevailing contracted commercial rate" for the enrollee's health care plan in this state for the service(s), except under certain circumstances.
        - Defines "prevailing contracted commercial rate" as *the most usual and customary rate that an insurer offers as payment for a specific service under s specific health care plan, not including a plan offered under Medicare or Medicaid or on a health insurance exchange.*
- Stipulates that if an enrollee is enrolled in a high deductible plan that qualifies the enrollee for a health savings account (26 USC § 223), the health care system is not liable if the enrollee submits a claim for deductible application of a direct pay amount that jeopardizes the enrollee's status as an individual eligible for favorable tax treatment of the health savings account.
- States that ARS § 32-3216 does not create any private right or cause of action for or on behalf of any person against a health insurer.
    - States further that ARS § 32-3216 provides only an administrative remedy for any violation of the statute or any related rule.
- Expands the definition of "health insurer" to exclude a governmental plan as defined in the Employee Retirement Income Security Act of 1974 (ERISA plans).
- Makes other technical and conforming changes.

Contains session law that repeals Laws 2013, Chapter 202, Section 7, which would have repealed ARS §§ 32-3216 and 36-437 from and after December 31, 2021.

HB 2643: sovereign authority; affordable care act (Ch. 321)

Enacts ARS § 1-271:

- Prohibits this state and all Arizona political subdivisions, pursuant to Arizona's sovereign authority and its constitution, from using any personnel or financial resources to enforce, administer or cooperate with the Affordable Care Act (ACA) by:
    - Funding or implementing a state-based health care exchange or marketplace.
    - Limiting the availability of self-funded health insurance programs or the reinsurance or other products that are traditionally used with self-funded health insurance programs.
    - Funding or aiding in the prosecution of any entity for a violation of the ACA, except as necessary to maintain the program integrity of the AHCCCS (Medicaid).
    - Funding or administering any program or provision of the ACA except for regulatory activities that:

        - Are associated with ARS § 20-238 and the state regulation of Navigators and Certified Application Counselors.
        - Are administered under ARS §§ 36-2901.08 and 36-2901.09.
        - Involve the AHCCCS.
        - Are associated with initiatives, grants or other funding related to public health treatment, preparedness, education or prevention programs authorized by the ACA, provided that the funding does not impose unrelated requirements on this state or Arizona political subdivisions that are outside the scope of the specific program.
- Permits the state and Arizona political subdivisions to use personnel or financial resources to provide employee health insurance benefits.
    - Permits such employee health insurance benefits to be in compliance with all provisions of the ACA.
- Defines "Affordable Care Act" for the purposes of ARS § 1-271.

END OF DOCUMENT